

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FTC COMMERCIAL CORP., a California corporation, } Case No. CV 08-08431 DMG (FFMx)
Plaintiff, } **ORDER TO REMAND FOR LACK OF SUBJECT MATTER JURISDICTION**
v. } **JS-6**
M&C APPAREL GROUP, INC., a California corporation, }
Defendant. }

On July 6, 2010, the Court issued an order to show cause (“OSC”) why the action should not be remanded to the Los Angeles County Superior Court given the absence of any federal claims in Plaintiff’s second amended complaint. On July 20, 2010, Defendant filed its response.

In its response to the OSC, Defendant argues that the Court should exercise its discretion to retain jurisdiction over this action because Plaintiff has reserved its right to revive its trademark infringement claim and because resolution of Plaintiff’s state law claims will require determination of trademark ownership. The Court disagrees. Here, as Defendant recognizes, the operative complaint no longer presents any federal question and the fact that Plaintiff may, in the future, raise a federal question does not provide a basis for subject matter jurisdiction. While Defendant argues that time and court

1 resources will be wasted and Defendants will be prejudiced should Plaintiff re-assert a
2 federal question in the future, Defendant does not point to any inconvenience or prejudice
3 to Defendant at this time.

4 Where no federal claims remain in an action, district courts generally decline to
5 exercise jurisdiction over the remaining state law claims. *See* 28 U.S.C. § 1337(c)(e); *see*
6 also *Carnegie-Melon University v. Cohill*, 484 U.S. 343, 350 n.8, 108 S. Ct. 614, 623, 98
7 L. Ed. 2d 720 (1988) (where “all federal-law claims are eliminated before trial, the
8 balance of factors to be considered under the pendent jurisdiction doctrine—judicial
9 economy, convenience, fairness, and comity—will point toward declining to exercise
10 jurisdiction over the remaining state-law claims”). If the court determines at any time
11 that it lacks subject-matter jurisdiction, the court must dismiss the action. Fed. R. Civ. P.
12 12(h)(3).

13 As no federal claims remain in this action, the Court lacks subject matter
14 jurisdiction. The Court therefore REMANDS the action to the Los Angeles County
15 Superior Court.

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17 IT IS SO ORDERED.

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19 DATED: July 30, 2010


DOLLY M. GEE
United States District Judge